

Message Text

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ACDA-12 AGRE-00 AID-05 CEA-01 CEQ-01 CG-00
COME-00 DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01
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TO USMISSION GENEVA IMMEDIATE
INFO AMEMBASSY PARIS

C O N F I D E N T I A L STATE 116978

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: FRENCH NOTE VERBALE OF 24 MARCH 78 SUBSEQUENT TO
AMOCO CADIZ INCIDENT

REF : GENEVA 06704

1. DEPARTMENT REPLIED APRIL 17 TO FRENCH NOTE VERBALE OF
MARCH 24 REGARDING THE AMOCO CADIZ GROUNDING. TEXT OF
FRENCH NOTE CONTAINED PARA 2 BELOW. TEXT OF REPLY CON-
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TAINED PARA 3 BELOW, WHICH REFERS TO NEED FOR COOPERATION
WITH IMCO IN ESTABLISHING EFFICACIOUS AND UNIVERSALLY AC-
CEPTABLE STANDARDS FOR THE PREVENTION OF MARITIME CASUAL-
TIES OCCASIONED BY POLLUTION BY OIL AND OTHER DANGEROUS
SUBSTANCES. DISCUSSION OF SUBSTANTIVE POINTS CONTAINED
PARAS 4-5 BELOW. EXAMINATION OF PRINCIPAL FRENCH REGULA-
TIONS ISSUED SUBSEQUENT TO NOTE VERBALE DISCUSSED PARA 6-7

BELOW.

2. QUOTE - 24 MARS 1978. L'AMBASSADE DE FRANCE PRESENTE SES COMPLIMENTS AU DEPARTEMENT D'ETAT ET A L'HONNEUR DE LUI FAIRE SAVOIR CE QUI SUI:

POUR EVITER LE RENOUVELLEMENT DE CATASTROPHES TELLES QUE

CELLE QUI FRAPPE ACTUELLEMENT SES COTES, LA FRANCE EST AMENEES A PRENDRE UN CERTAIN NOMBRE DE MESURES.

1. DANS L'ESPRIT DE L'ARTICLE 1ER DE LA CONVENTION INTERNATIONALE SUR L'INTERVENTION EN HAUTE MER EN CAS D'ACCIDENT ENTRAINANT OU POUVANT ENTRAINER UNE POLLUTION PAR LES HYDROCARBURES ET QUI EST ENTREE EN VIGUEUR DEPUIS MARS 1975, LE GOUVERNEMENT FRANCAIS DEMANDE AUX NAVIRES CITERNES TRANSPORTEURS D'HYDROCARBURES DE SIGNALER IMMEDIATEMENT TOUTE AVARIE OU ACCIDENT QUI SE PRODUIRAIT A UNE DISTANCE DE 50 MILES NAUTIQUES DES COTES FRANCAISES. PAR AVARIE, IL EST ENTENDU QU'IL S'AGIT OU D'UN INCIDENT POUVANT ENTRAINER UN RISQUE DE POLLUTION OU D'UNE IMPOSSIBILITE DE MANOEUVRER DONT LES CONSEQUENCES SONT IDENTIQUES.

2. D'AUTRE PART, LES NAVIRES DE CETTE CATEGORIE DEVRONT SIGNALER LEUR POSITION, LEUR ROUTE ET LEUR CARGAISON
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DES LORS QU'ILS ENTRENT DANS LES EAUX TERRITORIALES.

CES MESURES SONT INSPIREES DE LA NECESSITE DE PRESERVER LE PATRIMOINE FRANCAIS DE DEGRADATIONS QUI, SI ELLES SE REPRODUISAIENT ENCORE, DEVIENDRAIENT IRRVERSIBLES, ET NE SONT PAS CONTRADICTOIRES AVEC LE FAIT QUE LA FRANCE DEMEURE EN TOUT ETAT DE CAUSE FIDELE AU RESPECT DU PRINCIPE DU DROIT DE PASSAGE INNOCENT DANS LES EAUX TERRITORIALES QU'ELLE A TOUJOURS DEFENDU./.

L'AMBASSADE DE FRANCE SAISIT CETTE OCCASION POUR RENOUVELER AU DEPARTEMENT D'ETAT LES ASSURANCES DE SA TRES HAUTE CONSIDERATION.

DEPARTEMENT D'ETAT
WASHINGTON, D.C. UNQUOTE.

3. QUOTE - THE DEPARTMENT OF STATE REFERS TO THE NOTE VERBALE OF MARCH 24, 1978 OF THE EMBASSY OF FRANCE, REGARDING THE AMOCO CADIZ GROUNDING AND THE SUBSEQUENT INVOCATION BY THE GOVERNMENT OF FRANCE OF THE CONVENTION ON INTERVENTION ON THE HIGH SEAS IN CASES OF OIL POLLUTION

CASUALTIES.

THE GOVERNMENT OF THE UNITED STATES SHARES THE CONCERN OF THE GOVERNMENT OF FRANCE OVER THE CATASTROPHIC POLLUTION CAUSED BY THE ESCAPE OF OIL FROM THE RUPTURED CARGO TANKS OF THE GROUNDED AMOCO CADIZ OFF THE BRITTANY COAST. THE UNITED STATES HAS EXPERIENCED SIMILAR POLLUTION PROBLEMS, ALTHOUGH NOT OF THE MAGNITUDE OF THOSE RESULTING FROM THE AMOCO CADIZ CASUALTY.

UNDER THE CIRCUMSTANCES, THE GOVERNMENT OF THE UNITED STATES CERTAINLY UNDERSTANDS THE GOVERNMENT OF FRANCE'S ACTION IN INVOKING THE CONVENTION AND FOR IMPLEMENTING OTHER PROCEDURES. THE GOVERNMENT OF THE UNITED STATES
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HOPES THAT SUCH PROCEDURES WILL MEET THE NEEDS OF FRANCE TO PROTECT ITS MARINE ENVIRONMENT. IN ADDITION, THE GOVERNMENT OF THE UNITED STATES LOOKS FORWARD TO CLOSE COOPERATION, THROUGH THE INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION, WITH THE GOVERNMENT OF FRANCE IN ESTABLISHING EFFICACIOUS AND UNIVERSALLY ACCEPTABLE STANDARDS FOR THE PREVENTION OF MARITIME CASUALTIES OCCASIONED BY POLLUTION BY OIL AND OTHER DANGEROUS SUBSTANCES.

DEPARTMENT OF STATE,
WASHINGTON, UNQUOTE.

4. ARTICLE 1 OF FRENCH NOTE VERBALE APPLIES TO OIL TANKERS AND REQUIRES LATTER, IN CASE OF DAMAGE TO THE TANKER OR AN ACCIDENT OCCURRING WITHIN FIFTY MILES OF FRENCH COAST, TO NOTIFY FRENCH AUTHORITIES THEREOF, AS WELL AS ANY INCIDENT WHICH MAY RESULT IN A RISK OF POLLUTION TO THE FRENCH COAST AND OFFSHORE RESOURCES. ARTICLE 1 OF THE INTERVENTION CONVENTION, IN FORCE FOR BOTH THE UNITED STATES AND FRANCE, PROVIDES FOR COASTAL STATE COMPETENCE TO TAKE MEASURES ON THE HIGH SEAS RPT HIGH SEAS TO PREVENT, MITIGATE OR ELIMINATE GRAVE AND IMMINENT DANGER TO ITS COASTS OR RELATED INTERESTS FROM POLLUTION OR THREAT OF POLLUTION OF THE SEA BY OIL. FRENCH NOTICE REQUIREMENTS PROVIDED UNDER ARTICLE 1 OF FRENCH NOTE VERBALE ARE THUS WELL WITHIN BROAD POWERS RECOGNIZED UNDER ARTICLE 1 OF INTERVENTION CONVENTION. ALTHOUGH ICNT ARTICLE 42(B) PROVIDES FOR COASTAL STATES THE RIGHT IN INTERNATIONAL STRAITS TO MAKE, I.A., LAWS AND REGULATIONS TO PREVENT, REDUCE AND CONTROL POLLUTION BY GIVING EFFECT TO APPLICABLE INTERNATIONAL REGULATIONS REGARDING DISCHARGE OF OIL AND OILY WASTES, ICNT ARTICLES
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CANNOT PREVENT LICIT FRENCH EXERCISE OF RIGHTS UNDER INTERVENTION CONVENTION CURRENTLY IN FORCE FOR BOTH COUNTRIES. IN ADDITION, WE NOTE TENOR OF DESIRED CHANGES PROPOSED BY U.S. DELEGATION TO STRENGTHEN ARTICLE 222 OF ICNT FROM COASTAL STATE VIEWPOINT. MOREOVER, IN LIGHT OF SECTION 311(B)(5) OF FEDERAL WATER POLLUTION CONTROL ACT (FWPCA), 33 USC 466, ET SEQ., AS AMENDED BY PROVISIONS OF 1977 CLEAN WATER ACT THE U.S. MAY NOW FINE AND/OR IMPRISON FOR ONE YEAR ANY VESSEL DISCHARGING OIL OR HAZARDOUS SUBSTANCES OUT TO 200 MILES FROM SHORE WHICH FAILS TO NOTIFY U.S. AUTHORITIES OF SAME. ALTHOUGH SECTION 311(B)(5) LIMITED BY PHRASE "OTHERWISE SUBJECT TO

THE JURISDICTION OF THE UNITED STATES," JURISDICTION OF SECTION BASED, I.A., ON U.S. RESOURCE JURISDICTION (I.E., LIVING AND NON-LIVING). U.S. JURISDICTION CLAIMED OVER NON-REMOVABLE HAZARDOUS SUBSTANCES UNDER CLEAN WATER ACT AMENDMENTS OUT TO 200 MILES (AND CONCEIVABLY, IN CASE OF CONTINENTAL SHELF RESOURCES, BEYOND THAT) IS NON-RESTRICTIVE (I.E., NOT "NOT OTHERWISE SUBJECT TO THE JURISDICTION OF THE U.S.") AND MAY RESULT IN A CIVIL PENALTY OF UP TO DOLS 5,000,000 PER VIOLATION.

5. SECTION 2 OF FRENCH NOTE VERBALE REQUIRES SHIPS AS PROVIDED IN PARA 1 OF NOTE TO NOTIFY COASTAL AUTHORITIES OF THEIR POSITION, ROUTE AND CARGO FROM THE MOMENT THEY ENTER FRENCH TERRITORIAL WATERS. GIVEN USCG IMPLEMENTING REGULATIONS UNDER FWPCA WITHIN UNITED STATES TERRITORIAL SEA AND CONTIGUOUS ZONE, AS WELL AS ARTICLE 1 OF THE INTERVENTION CONVENTION, FRENCH ACTION CONTEMPLATED UNDER ARTICLE 2 OF NOTE VERBALE IS CONSISTENT WITH PREVAILING U.S. PRACTICE.

6. PRINCIPAL IMPLEMENTING REGULATIONS ISSUED BY FRENCH PURSUANT TO 24 MARCH NOTE VERBALE ADDRESS UNILATERALLY ESTABLISHED TRAFFIC SEPARATION SCHEME (TSS) IN USHANT
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ISLAND AREA AND ARE CONTAINED IN HYDROLANT 308/78 (MAR) OF 301534Z INFO U.S. MISSION GENEVA FOR LOSDEL. EXAMINATION OF RULE ONE THEREIN REVEALS THAT OUTERMOST SEAWARD (I.E., ENGLISH CHANNEL) EXTENT OF TRAFFIC SEPARATION SCHEME ESTABLISHED LIES 8.8 MILES OF LOW WATER MARK OF USHANT ISLAND. TSS IN THESE WATERS APPLIES TO INTERNATIONAL SHIPPING. GIVEN ICNT ARTICLES 22(1) AND 121(2)

AND ARTICLE 10(2) OF THE 1958 GENEVA CONVENTION ON THE TERRITORIAL SEA AND CONTIGUOUS ZONE, AS WELL AS U.S. PRACTICE IN ESTABLISHING TSS SCHEMES OFF ITS COASTS, THIS RULE SHOULD PRESENT NO DIFFICULTIES FOR U.S. INTERESTS. ADDITIONALLY, USDEL SHOULD NOTE DISTANCE FROM USHANT ISLAND TO NEAREST POINT OF UNITED KINGDOM IS APPROXIMATELY 90 MILES. THIS, COUPLED WITH FACT THAT TSS IS AREALLY LIMITED, FURTHER MINIMIZES ANY PROBLEM FROM U.S. VIEW-POINT.

7. RULE 2 IN HYDROLANT 308/78 APPLIES TO WATERS FOUR MILES SEAWARD (CHANNELWARD) OF USHANT ISLAND AND IS LIMITED TO COASTAL TRAFFIC. RULE 3 APPLIES BETWEEN USHANT ISLAND AND FRENCH MAINLAND (CAP FINISTERE) AND THEREFORE POSES NO PROBLEM ON EITHER OF TWO INDEPENDENT GROUNDS: (A) WATERS ARE FRENCH INTERNAL WATERS; (B) ICNT ARTICLE 36.

8. OFFICE OF LEGAL ADVISER CURRENTLY UNDERTAKING COMPREHENSIVE REVIEW OF FOREIGN VESSEL-SOURCE POLLUTION CONTROL LEGISLATION. CONSEQUENTLY, DEPT. SHALL AWAIT OUTCOME OF THAT REVIEW BEFORE FORMULATING ANY ADDITIONAL RESPONSE TO FRENCH NOTE VERBALE OF 24 MARCH.

9. TRANSLATION OF FRENCH NOTE VERBALE 24 MAR FOLLOWS
SEPTEL. VANCE
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Message Attributes

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Control Number: n/a
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Draft Date: 08 may 1978
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Decaption Note:
Disposition Action: RELEASED
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Disposition Case Number: n/a
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Disposition History: n/a
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